IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

FRIDAY, THE 9TH MARCH 2007 / 18TH PHALGUNA 1928

OP.No. 7223 of 2003(I)

PETITIONER:

VASU, S/O.NARAYANAN, MARIYIL HOUSE,
ARAKKUZHA VILLAGE, MUVATTUPUZHA.

BY ADV. SRI.K.M.VARGHESE

RESPONDENTS:

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1. SALES OFFICER, MUVATTUPUZHA URBAN CO-OP.BANK LTD., MUVATTUPUZHA.

2. MOOVATTUPUZHA URBAN CO-OP.BANK LTD., NO.556, MUVATTUPUZHA, REPRESENTED BY ITS BRANCH MANAGER.

3. MUVATTUPUZHA HOUSING CO-OP.SOCIETY LTD. NO.E 229, MUVATTUPUZHA, REPRESENTED BY SECRETARY.

BY

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 09/03/2007 THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON CMP 12633 OF 2003 IN OP 7223 OF 2003

DISMISSED

9.3.2007 SD/-C.N.RAMACHANDRAN NAIR, JUDGE.

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 TRUE COPY OF THE REPRESENTATION DATED 21.2.2003 FROM THE PETITIONER TO THE FIRST RESPONDENT.

RESPONDENTS' EXHIBITS: NIL

TRUE COPY

P.S. TO JUDGE.

C.N.RAMACHANDRAN NAIR,J.

O.P. NO. 7223 OF 2003

Dated this the 9th day of March, 2007

JUDGMENT

Petitioner is challenging recovery proceedings through attachment of movables in his house on the ground that his son who is the defaulter has no right over any such movables. O.P. is pending for the last four years and it is not known whether respondents have effected recovery by attachment and sale of movables and immovables of the defaulter, namely, petitioner's son. If the petitioner is neither borrower nor guarantor, there is no scope for recovery against petitioner's assets , even though petitioner's son may be a defaulter. In the circumstances, O.P. is disposed of directing the respondents to identify both movable and immovables of the defaulter, attach and sell them. If there is any controversy as to who is the owner of movables, the same should be settled by sale officer on a claim petition to be filed by the petitioner with reference to documents to be produced by the parties.

(C.N.RAMACHANDRAN NAIR)
Judge